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7

8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation Against,

Case No. 800-2017-035446

12 **DENISE ANN HAMILTON, M.D.**
2623 Britannia Ct.
13 Xenia, OH 45385-8996
Physician's and Surgeon's Certificate No.
14 A55480

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

15 Respondent.
16

17
18 **FINDINGS OF FACT**

19 1. On or about September 28, 2017, Complainant Kimberly Kirchmeyer, in her official
20 capacity as the Executive Director of the Medical Board of California (Board), filed Accusation
21 No. 800-2017-035446 against Denise Ann Hamilton, M.D. (Respondent) before the Board.

22 2. On or about January 3, 1996, the Medical Board of California issued Physician's and
23 Surgeon's Certificate No. A55480 to Respondent. The Physician's and Surgeon's Certificate was
24 current at all times relevant to the charges brought herein and will expire on November 30, 2017,
25 unless renewed. On August 30, 2017, an out-of-state suspension order was issued by the Board.
26 (Exhibit Package, Exhibit 1¹, License Certification.)

27 ¹ The evidence in support of this Default Decision and Order is submitted herewith as the
28 "Exhibit Package."

1 3. On or about September 28, 2017, an employee of the Board served by Certified Mail
2 (Certification No. 7012-3460-0002-5328-2775) a copy of Accusation No. 800-2017-035446,
3 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code
4 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which
5 was and is 2623 Britannia Ct., Xenia, OH 45385-8996. The Statement to Respondent advised
6 Respondent that she was required to complete, sign and return a Notice of Defense within fifteen
7 days if she desired a hearing on the charges. (Exhibit Package, Exhibit 2, Accusation Package,
8 Declaration of Service.)

9 4. On or about October 2, 2017, Respondent signed and dated the certified mail receipt
10 (Certification No. 7012-3460-0002-5328-2775), confirming personal delivery of Accusation No.
11 800-2017-035446 to her address of record. (Exhibit Package, Exhibit 3, Certified Mail Receipt.)
12 Respondent did not submit a Notice of Defense.

13 5. On October 17, 2017, an employee of the Attorney General's Office sent by certified
14 mail addressed to Respondent at the address of record set forth above a courtesy Notice of
15 Default. The Notice of Default provided Respondent with a copy of the Accusation and Notice of
16 Defense, advised her that she was in default, and cautioned her that a decision would be rendered
17 by the Board without a hearing if she did not take action. The return receipt for the Courtesy
18 Notice of Default was not returned and Respondent has made no reply. (A copy of the Courtesy
19 Notice of Default, Declaration of Service, and United States Post Office tracking results reflecting
20 that notice of delivery was left for Respondent on October 21, 2017 are included as Exhibit 4 in
21 the Exhibit Package.) Respondent has not responded to service of the Accusation or the Courtesy
22 Notice of Default. She has not filed a Notice of Defense. As a result, Respondent has waived her
23 right to a hearing on the merits to contest the allegations contained in the Accusation.

24 6. The allegations of the Accusation are true as follows:

25 On June 14, 2017, the State Medical Board of Ohio (Ohio Board) issued an Entry of
26 Order (Order) suspending Respondent's license to practice medicine in the State of Ohio,
27 effective immediately. The Order was based on factual findings that Respondent began a
28 monitoring program for impairment due to chemical abuse or chemical dependency through the

1 Ohio Physician's Health Program in 2014. On May 22, 2017, the Ohio Board learned
2 Respondent relapsed on alcohol after testing positive for alcohol as part of a random screening
3 administered through the Ohio Physician's Health Program. Additionally, the Ohio Board has not
4 received proof that Respondent completed the recommended/required treatment and entered into
5 an aftercare program with an Ohio Board-approved treatment provider, or that Respondent has
6 been determined to be capable of practicing medicine in accordance with acceptable and
7 prevailing standards of care. A copy of the Order issued by the Ohio Board is attached is attached
8 to the Accusation, Exhibit Package, Exhibit 2.

9 STATUTORY AUTHORITY

10 7. Section 2305 of the Code provides, in part, that the revocation, suspension, or other
11 discipline, restriction or limitation imposed by another state upon a license to practice medicine
12 issued by that state, or the revocation, suspension, or restriction of the authority to practice
13 medicine by any agency of the federal government, that would have been grounds for discipline
14 in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional
15 conduct.

16 8. Section 141 of the Code provides:

17 “(a) For any licensee holding a license issued by a board under the jurisdiction of the
18 department, a disciplinary action taken by another state, by any agency of the federal government,
19 or by another country for any act substantially related to the practice regulated by the California
20 license, may be a ground for disciplinary action by the respective state licensing board. A
21 certified copy of the record of the disciplinary action taken against the licensee by another state,
22 an agency of the federal government, or by another country shall be conclusive evidence of the
23 events related therein.

24 “(b) Nothing in this section shall preclude a board from applying a specific statutory
25 provision in the licensing act administered by the board that provides for discipline based upon a
26 disciplinary action taken against that licensee by another state, an agency of the federal
27 government, or another country.”
28

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits 1 through 4, finds that the allegations in Accusation No. 800-2017-035446 are true.

DETERMINATION OF ISSUES

10. Pursuant to the foregoing Findings of Fact, Respondent's conduct, and the action of the Ohio Board constitute cause for discipline within the meaning of Business and Professions Code sections 2305 and 141(a).

DISCIPLINARY ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. A55480, issued to Denise Ann Hamilton, M.D., is **REVOKED**.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision will become effective December 20, 2017, at 5:00 p.m.

It is so ordered on November 20, 2017.

Kimberly Kirchmeyer, Executive Director
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 28 2017
BY: R. VODAS ANALYST

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

11 **Denise Ann Hamilton, M.D.**

12 2623 Britannia Ct.
Xenia, OH 45385-8996

13 **Physician's and Surgeon's Certificate**
No. A55480,

14 Respondent.

Case No. 800-2017-035446

A C C U S A T I O N

15 Complainant alleges:

16 **PARTIES**

17 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
18 capacity as the Executive Director of the Medical Board of California (Board).

19 2. On or about January 3, 1996, the Medical Board issued Physician's and Surgeon's
20 Certificate Number A55480 to Denise Ann Hamilton, M.D. (Respondent). The Physician's and
21 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
22 herein and will expire on November 30, 2017, unless renewed.

23 **JURISDICTION**

24 3. This Accusation is brought before the Board, under the authority of the following
25 laws. All section references are to the Business and Professions Code (Code) unless otherwise
26 indicated.

27 A. Section 2227 of the Code provides in part that the Board may revoke, suspend
28 for a period not to exceed one year, or place on probation, the license of any licensee who

1 has been found guilty under the Medical Practice Act, and may recover the costs of
2 probation monitoring.

3 B. Section 2305 of the Code provides, in part, that the revocation, suspension, or
4 other discipline, restriction, or limitation imposed by another state upon a license or
5 certificate to practice medicine issued by that state, or the revocation, suspension, or
6 restriction of the authority to practice medicine by any agency of the federal government,
7 that would have been grounds for discipline in California of a licensee under this chapter,
8 shall constitute grounds for disciplinary action for unprofessional conduct against the
9 licensee in this state.

10 C. Section 141 of the Code provides:

11 “(a) For any licensee holding a license issued by a board under the jurisdiction of
12 the department, a disciplinary action taken by another state, by any agency of the
13 federal government, or by another country for any act substantially related to the
14 practice regulated by the California license, may be a ground for disciplinary action
15 by the respective state licensing board. A certified copy of the record of the
16 disciplinary action taken against the licensee by another state, an agency of the
17 federal government, or another country shall be conclusive evidence of the events
18 related therein.

19 “(b) Nothing in this section shall preclude a board from applying a specific
20 statutory provision in the licensing act administered by that board that provides for
21 discipline based upon a disciplinary action taken against the licensee by another state,
22 an agency of the federal government, or another country.”

23 CAUSE FOR DISCIPLINE

24 **(Discipline, Restriction, or Limitation Imposed by Another State)**

25 4. On June 14, 2017, the Medical Board of Ohio (Ohio Board) issued an Entry of Order
26 (Order) regarding Respondent’s license to practice medicine in the State of Ohio. The Order
27 contains the following information:

- 28
- 29 a) Respondent began a monitoring program for impairment due to chemical abuse or
30 chemical dependency through the Ohio Physician’s Health Program in 2014;
 - 31 b) On May 22, 2017, the Ohio Board learned Respondent relapsed on alcohol after
32 testing positive for alcohol as part of a random screening administered through the
33 Ohio Physician’s Health Program;

1 c) The Ohio Board has not received proof that Respondent has completed the
2 recommended/required treatment and entered into an aftercare program with an
3 Ohio Board-approved treatment provider, or that Respondent has been determined
4 to be capable of practicing medicine in accordance with acceptable and prevailing
5 standards of care.

6 5. Respondent's license to practice medicine in the State of Ohio is subject to the
7 following term pursuant to the Order: Respondent's certificate to practice medicine and surgery is
8 summarily suspended. Respondent is ordered to immediately cease the practice of medicine and
9 surgery and refer all active patients to other appropriate physicians. A true and correct copy of
10 the Order issued by the Ohio Board is attached as Exhibit A.

11 6. Respondent's conduct and the action of the Ohio Board, as set forth in paragraphs 4
12 and 5 above, constitute cause for discipline pursuant to sections 2305 and/or 141 of the Code.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Board issue a decision:

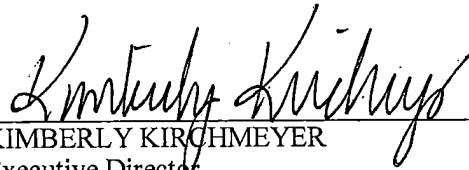
16 1. Revoking or suspending Physician's and Surgeon's Certificate Number A55480,
17 issued to Denise Ann Hamilton, M.D.;

18 2. Revoking, suspending or denying approval of Denise Ann Hamilton, M.D.'s authority
19 to supervise physician assistants and advanced practice nurses;

20 3. Ordering Denise Ann Hamilton, M.D., if placed on probation, to pay the Board the
21 costs of probation monitoring; and

22 4. Taking such other and further action as deemed necessary and proper.

23
24 DATED: September 28, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant

25
26
27 SF2017401956/41834257.docx

Exhibit A

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

DENISE ANN HAMILTON, M.D.

CASE NUMBER: 17-CRF-0082

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 14th day of June 2017.

Pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation of Kim G. Rothermel, M.D., Secretary, and Bruce R. Saferin, D.P.M., Supervising Member; and

Pursuant to their determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that there is clear and convincing evidence that Dr. Hamilton, has violated Section 4731.22(B)(26), Ohio Revised Code, as alleged in the Notice of Summary Suspension and Opportunity for Hearing that is enclosed herewith and fully incorporated herein; and,


Pursuant to their further determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that Dr. Hamilton's continued practice presents a danger of immediate and serious harm to the public;

The following Order is hereby entered on the Journal of the State Medical Board of Ohio for the 14th day of June 2017:

It is hereby ORDERED that the certificate of Denise Ann Hamilton, M.D., to practice medicine and surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that Dr. Hamilton, shall immediately cease the practice of medicine and surgery in Ohio and immediately refer all active patients to other appropriate physicians.

This Order shall become effective immediately.


Kim G. Rothermel, M.D.
Secretary

(SEAL)

June 14, 2017
Date



State Medical Board of

Ohio

**NOTICE OF SUMMARY SUSPENSION
AND
OPPORTUNITY FOR HEARING**

June 14, 2017

Case number: 17-CRF- 0082

Denise Ann Hamilton, M.D.
2623 Britannia Ct.
Beavercreek, OH 45385

Dear Doctor Hamilton:

The Secretary and the Supervising Member of the State Medical Board of Ohio [Board] have determined that there is clear and convincing evidence that you have violated Section 4731.22(B)(26), Ohio Revised Code, and have further determined that your continued practice presents a danger of immediate and serious harm to the public, as set forth in paragraphs (1) through (2), below.

Therefore, pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation of Kim G. Rothermel, M.D., Secretary, and Bruce R. Saferin, D.P.M., Supervising Member, you are hereby notified that, as set forth in the attached Entry of Order, your certificate to practice medicine and surgery in the State of Ohio is summarily suspended. Accordingly, at this time, you are no longer authorized to practice medicine and surgery in Ohio.

Furthermore, in accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the Board intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about May 22, 2017, the Board learned that you had relapsed on alcohol after you tested positive for alcohol as a part of a random screen administered through the Ohio Physicians Health Program. You originally entered monitoring for initial impairment due to chemical abuse or chemical dependency through the Ohio Physicians Health Program in 2014. On or about May 24, 2017, you left a voicemail with the Board self-reporting your relapse.
- (2) Although you may still be affiliated with the Ohio Physicians Health Program, the Board has not received any information indicating that you have completed the recommended/required treatment and entered into an aftercare contract with a Board approved treatment provider. In addition, the Board has not received information that you have been determined to be capable of practicing in accordance with acceptable and prevailing standards of care.

Section 4731.22(B)(26), Ohio Revised Code, provides that if the Board determines that an individual's ability to practice is impaired, the Board shall suspend the individual's certificate and shall require the individual, as a condition for continued, reinstated, or renewed certification to practice, to submit to treatment and, before being eligible to apply for reinstatement, to demonstrate to the Board the ability to resume practice in compliance with acceptable and prevailing standards of care, including completing required treatment, providing evidence of compliance with an aftercare contract or written consent agreement, and providing written reports indicating that the individual's ability to practice has been assessed by individuals or providers approved by the Board and that the individual has been found capable of practicing according to acceptable and prevailing standards of care.

Further, Rule 4731-16-02(B)(1), Ohio Administrative Code, provides that if an examination discloses impairment, or if the Board has other reliable, substantial and probative evidence demonstrating impairment, the Board shall initiate proceedings to suspend the licensee, and may issue an order of summary suspension as provided in Section 4731.22(G), Ohio Revised Code.

Further, Rule 4731-16-02(B)(2), Ohio Administrative Code, additionally provides that if an individual has relapsed during or following treatment, it shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (2) above, individually and/or collectively, constitute "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

Furthermore, for any violations that occurred on or after September 29, 2015, the board may impose a civil penalty in an amount that shall not exceed twenty thousand dollars, pursuant to Section 4731.225, Ohio Revised Code. The civil penalty may be in addition to any other action the board may take under section 4731.22, Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, and Chapter 4731., Ohio Revised Code, you are hereby advised that you are entitled to a hearing concerning these matters. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kim G. Rothermel" followed by a stylized flourish.

Kim G. Rothermel, M.D.
Secretary

KGR/JBR/bjr
Enclosures

CERTIFIED MAIL #91 7199 9991 7036 6914 3490
RETURN RECEIPT REQUESTED

cc: BY PERSONAL DELIVERY